

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2001-006962

03/26/2012

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT

I. Ostrander

Deputy

IN RE THE MATTER OF
ERIC BEARD

ERIC BEARD
6801 N 21ST AVE #I
PHOENIX AZ 85015

AND

CORINA DASCHIEVICI

CORINA DASCHIEVICI
130 W GUADALUPE RD APT 1093
GILBERT AZ 85233

AG-CHILD SUPPORT-EAST VALLEY
OFFICE
FAMILY COURT SERVICES-CCC
TASC - MESA

**RESOLUTION MANAGEMENT CONFERENCE
EVIDENTIARY HEARING SET**

Courtroom 402 SEF

9:44 a.m. This is the time set for Resolution Management Conference regarding Respondent's *Motion for Post-Decree Temporary Order without Notice for Modification of Parenting Time* filed January 23, 2012. Petitioner/Father is neither present nor represented by counsel. Respondent/Mother is present on her own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Discussion is held regarding Father's nonappearance.

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The Court has been advised that Mother does not have with her proof of service nor has she filed an affidavit of proof of service. The Court finds Father is not in contempt of Court for failing to appear in court today as there is no proof filed with the Court as of this morning that Father was legally served and was aware of this hearing. The Court is advised that Mother has advised Court staff that Father is actually aware of this hearing but has chosen not to appear.

Given the findings in FN2012-090082, the Court is concerned that if it were to dismiss Mother's *Motion for Post-Decree Temporary Order without Notice for Modification of Parenting Time* it would fail in its obligation to address the issues raised by Kaylyn Elzaharna (Petitioner in FN2012-090082) in the *Order of Protection* she obtained against Eric Beard on February 14, 2012, which is referenced in Mother's *Motion for Post-Decree Temporary Order without Notice for Modification of Parenting Time*.

Based on the fact that subsequent to the filing of Mother's motion there was a hearing and an order with a finding that Father had recently engaged in acts of domestic violence, the Court finds it appropriate to reconsider Mother's *Motion for Post-Decree Temporary Order without Notice for Modification of Parenting Time*.

IT IS THEREFORE ORDERED granting Mother's *Motion for Post-Decree Temporary Order without Notice for Modification of Parenting Time* and granting to Mother temporary sole legal custody of the minor child and suspending parenting time for Father until further order of the Court.

IT IS FURTHER ORDERED that before filing any motion or petition regarding custody and/or parenting time, Father shall provide proof that the *Order of Protection* issued by Commissioner Abe on February 14, 2012, has been set aside.

If Father does not have proof that the *Order of Protection* has been set aside but would like to argue that he should have parenting time, either supervised or unsupervised,

IT IS ORDERED that Father must appear at a location of TASC and submit to a hair follicle test.

IT IS FURTHER ORDERED that Father shall undergo random drug testing on the following basis:

- A. Agency. Father random drug testing shall be conducted at a location of TASC Inc., the main office of which is at 2234 N. Seventh Street, Phoenix, Arizona, (602) 254-7328. Other locations are listed on the TASC referral form and may be viewed at www.tascaz.org.

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- B. First Test. Father shall report to TASC for his test.
- C. Scope. Father shall undergo a full spectrum substance and drug test (Screen A) for each test ordered herein.
- D. Cooperation. Father shall cooperate fully as reasonably required by the testing agency to comply with this order, including:
1. Father shall provide such samples as are reasonably required by the testing agency to comply with this order.
 2. Father shall timely report for testing and shall provide samples as directed by the testing agency.
 3. Father shall present photo identification to the testing agency at the time of each test.
 4. Father shall sign and deliver such forms of consent, authorization, and release of test results as shall be reasonably required by the testing agency to comply with this order.
- E. Cost. Father shall pay the cost of his testing (\$25.00 per test) in money order or cashier's check at the time of testing.
- F. Frequency and Duration. Father shall be randomly tested not less than once per week until he has obtained four consecutive weekly negative tests.
- G. Positive/Diluted/Missed Test. All parties are advised that the failure, neglect, or refusal to participate in testing or providing a diluted test sample at the time of testing may be considered an admission by the party that the testing, if properly conducted, would have revealed the use of the substance(s) tested for, which finding is contrary to the best interest of a child. Certain prescription medications may cause a positive drug test result. Parties who are required to drug test are expected to provide proof to the Court of prescriptions and documentation from healthcare providers regarding the lawful possession and use of those medications.
- H. Reporting. The parties are hereby advised that test results ARE NOT confidential and will be filed in the Court file upon receipt by the Court. The results of each test shall be reported directly to counsel for both parties or directly to the parties at the

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addresses provided by the parties to the testing agency, if unrepresented by counsel. The testing agency shall also provide this Court with a monthly drug test summary report.

Once Father has provided four consecutive negative urinalysis drug test results, the Court will reconsider its ruling and reinstitute the existing orders regarding Father's parenting time.

IT IS ORDERED setting Evidentiary Hearing to the Court regarding Mother's *Motion for Post-Decree Temporary Order without Notice for Modification of Parenting Time* on **May 14, 2012, at 1:00 p.m. (time allotted: 1 hour)** before the Honorable Timothy J. Ryan at:

Maricopa County Superior Court
Southeast Judicial District
Courtroom 402
222 E. Javelina Avenue
Mesa, AZ 85210

Pursuant to Rule 77(B), Arizona Rules of Family Law Procedure, each party will be allowed one-half of the available time to present all direct, cross, redirect examination, and any argument. The parties are expected to complete the hearing in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least thirty (30) days prior to the hearing setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

IT IS FURTHER ORDERED that the parties shall file and provide this division with a copy of a Joint Pre-Hearing Statement pursuant to Rule 76, Arizona Rules of Family Law Procedure, no later than **May 7, 2012**.

IT IS FURTHER ORDERED that the Joint Pre-Hearing Statement shall include the following attachments:

1. A current Affidavit of Financial Information.
2. A current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.
3. If there are disputed custody, access or visitation issues, a specific proposal for custody and visitation by each party

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IT IS FURTHER ORDERED that the parties shall indicate in the Joint Pre-Hearing Statement those exhibits they have agreed will be admissible at the hearing, as well as any specific objections that will be made to any exhibit, if offered at the hearing, that is not agreed to be admitted. Reserving all objections to the time of the hearing will not be permitted. At the time of the hearing, all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pre-Hearing Statement shall be summarily admitted.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of the hearing or to timely present the Joint Pre-Hearing Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 71, Arizona Rules of Family Law Procedure and Local Rules 6.2(e) and 6.9(k), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

IT IS FURTHER ORDERED any evidence intended to be submitted as exhibits at the time of the hearing must be brought to this division **no later than May 7, 2012, with a coversheet listing the description of the exhibits. The exhibits shall be separated by a COLORED sheet of paper.** Any exhibits submitted shall be copied to the opposing party at that same time. The parties shall coordinate their exhibits so that each party does not present duplicate exhibits of the other party. **Failure to obey these orders may result in exclusion of the exhibit and/or waiver of objections. NOTE: DO NOT PROVIDE A BENCH COPY OF THE EXHIBITS. Attorneys who violate this order shall reimburse their client for the cost of preparing a Bench Copy notebook and will be sanctioned a \$100 fine payable to the Clerk of Court.**

NOTE: If either party intends to offer as evidence the digital or electronic recording from a prior court proceeding, the party shall also provide to the Court a certified transcript of the recording, which shall be marked as an exhibit. The party seeking to offer the recording as evidence shall bear the cost for preparation of the transcription. If either party intends to offer documents as evidence that are in a language other than English, the Court shall be provided with an official certified translation of the documents.

Counsel and the parties are reminded of their obligation to give prompt notice to the Court of any settlement as required by Rule 70, Arizona Rules of Family Law Procedure.

IT IS FURTHER ORDERED with regard to discovery and disclosure requirements:

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1. Both parties shall exchange updated disclosure statements required by Rules 49 and 50, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents, and exhibits on or before **April 13, 2012**.
2. All depositions and discovery contemplated by Rules 49 through 65, Arizona Rules of Family Law Procedure, shall be completed and any motions regarding discovery shall be filed no later than **April 13, 2012**.
3. Counsel and both parties shall confer on or before **April 13, 2012**, to conduct settlement discussions, exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.
4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company, business, medical or healthcare provider, or employer possessing any relevant information.

NOTICE

You may request conclusions of fact and law on the following issues, if they are contested: the issues of child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the Court before the hearing. If you make a written request before the hearing, the Court will make conclusions of fact and law as part of the final decision.

If any party asks the Court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pre-Hearing Statement.

NOTE: ALL COURT PROCEEDINGS ARE RECORDED BY AUDIO METHOD AND NOT BY A COURT REPORTER. ANY PARTY MAY REQUEST THE PRESENCE OF A COURT REPORTER BY CONTACTING THIS DIVISION THREE (3) COURT BUSINESS DAYS BEFORE THE SCHEDULED HEARING.

LET THE RECORD REFLECT the Court is in receipt of Respondent's *Petition to Modify Child Parenting Time or Parenting Time and Child Support* filed January 23, 2012. At the request of either party, the Court will set a hearing on the petition.

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IT IS ORDERED Father shall file written responses to Mother's *Motion for Post-Decree Temporary Order without Notice for Modification of Parenting Time* and Mother's *Petition to Modify Child Parenting Time or Parenting Time and Child Support*.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81 (D), Arizona Rules of Family Law Procedure.

DATED this 26th day of March 2012.

/S/ HONORABLE TIMOTHY J. RYAN

HONORABLE TIMOTHY J. RYAN
JUDICIAL OFFICER OF THE SUPERIOR COURT

9:53 a.m. Hearing concludes.

LATER:

LET THE RECORD REFLECT prior to the commencement of today's proceeding, Mother advised the courtroom clerk that her current address has changed. The courtroom clerk has updated Mother's address in iCIS as reflected on the *Update Information on Address* form filed this date.

FILED: *Update Information on Address* form

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.